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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,645	12/22/2000	Aman Gupta	GEMS8081.056	4526
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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ZPS)				
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EXAMINER
JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,645

Applicant(s)

GUPTA ET AL.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-14, 17-19 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 7-10, 15-16, and 20, 25-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. In view of the Reply Brief filed on March 3, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (a) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (b) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the limitation "the number of opportunities". It is unclear as to what number of opportunities applicant is referring. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 11-14, 17-19, and 21-24 are rejected under 35 USC 102(b) as being anticipated by Martin (US Patent No. 5,809,479).

As per claims 1, and 5-6, Martin teaches a method for setting and reporting product delivery date. In so doing, Martin teaches maintaining a database that contains fields indicating at least an order, a max ship date, a customer requested date, and a product category for each order; fetching order information for all orders that have a valid max ship date, subtracting the customer requested date from the max ship date producing a difference value, adding a predetermined number of days to the difference value providing a shipment quality metric for each order; and determining a statistical calculation to indicate process quality using the shipment quality metric (col. 2, line 24 through col. 4, line 54).

As per claim 2, Martin further discloses the method of claim 1 wherein the order information fetched from the database is only for those orders that were placed within a given time period (col. 5, lines 28-40).

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As per claim 3, Martin further discloses determining a value for an upper specification limit and a lower specification limit, displaying the percentage of times the shipment quality metric was greater than the upper specification limit, and displaying the percentage of times the shipment quality metric was less than the lower specification limit (col. 4, lines 54-65).

As per claim 4, martin further disclose setting a value for at least one specification limit; and computing and displaying a statistical score based upon the specification limit and the shipment quality metrics, wherein said statistical score is a measure of process capability (col. 4, lines 54-65).

As per claims 11-14, Martin discloses a computer-readable medium having stored thereon one or more computer programs having a set of instructions that, when executed by one or more computers, causes the one or more computers to query a database that contains information detailing orders, a requested delivery date, a max ship date, and a product category for a plurality of products, ignore orders with no max ship date, subtract the requested delivery date from the max ship date and add an adjustment value to obtain a shipment quality metric; repeat the query, subtraction, addition acts for a plurality of shipped products; and process the shipment quality metrics to determine overall shipment quality (col. 2, line 24 through col. 4, line 54).

As per claim 17-19, and 21-24, Martin teaches a method for setting and reporting product delivery date. In so doing, Martin teaches maintain a database of data indicating an order number, a promise date, a request date, a max ship date, and a product category for each product, obtain the data from each order that has a valid max ship date; create an upper specification limit by adding a predetermined number of days just prior to a customer's requested delivery date,

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create a lower specification limit by adding a predetermined number of days after a customer's requested delivery date, and compute and display a statistical value providing an indication of process capability (col. 2, line 24 through col. 4, line 54).

Allowable Subject Matter

6. Claim 7-10, 15-16, and 20, 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

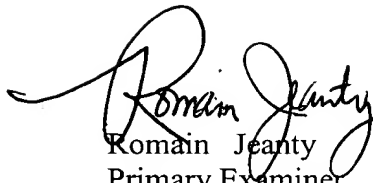
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RJ

May 15, 2006



Romain Jeanty
Primary Examiner
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